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Confirmation No. 8117
Date of Notice of Allowance: December 3, 2004 **PATENT**
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

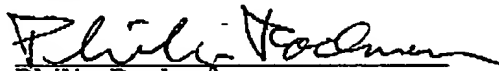
Applicant: Frederick E. MOOTZ et al
Serial No.: 09/626,066 Group Art Unit: 1743
Filing Date: July 26, 2000 Examiner: Dwayne K. Handy
Title: **CUP HANDLING SUBSYSTEM FOR AN
AUTOMATED CLINICAL CHEMISTRY
ANALYZER SYSTEM**
Entity Status: Large Entity
Our Docket: MST 1997.1 (BYR-77)

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this paper and the enclosures (4 pages total) is being transmitted via facsimile number (703) 872-9306 on the date shown below to:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on March 18, 2005


Philip Rodman
Attorney for Applicant

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF ATTORNEY FILING
PETITION UNDER 37 CFR § 1.137(b)**

Sir:

I, Philip Rodman, declare as follows:

1. The September 9, 2004 decision of the Petitions Examiner (*copy enclosed*) granting the Petition to Revive this application under 37 CFR § 1.137(b), raised an issue of whether the person signing the statement of unintentional delay was in a position to have direct knowledge that the delay was unintentional.


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2. I am the person who signed the statement of unintentional delay in the Petition and who filed the Petition For Revival of this application.

3. Based on information furnished to me by the assignee of this application it is my understanding that the entire delay in filing a Response to the Office Action of December 8, 2003 until the filing of the August 18, 2004 Petition under 37 CFR 1.137(b) was unintentional.

I hereby declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,


Philip Rodman, Registration No. 25,704
Attorney for Applicant

Dated: March 18, 2005

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Paper No. 5

JOHN M PAOLINO
BAYER CORPORATION
511 BENEDICT AVENUE
TARRYTOWN, NY 10591

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SEP 09 2004

OFFICE OF PETITIONS

In re Application of :
Frederick E Mootz et al :
Application No. 09/626,066 : **ON PETITION**
Filed: July 26, 2000 :
Attorney Docket No. MST-1997.1CUP Handling su :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 9, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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Application No. 09/626,066

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Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.¹

The application file is being forwarded to Technology Center AU 1743.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: PHILIP RODMAN
7-11 SOUTH BROADWAY
WHITE PLAINS, NY 10601

¹ Effective September 27, 2004, the phone number will be 571-272-3220.